HOUSE BILL No. 2158

By Representative Miller

1-25


Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 25-1132 is hereby amended to read as follows: 25-1132. (a) All advance voting ballots which are received in the office of the county election officer \{or the polling place\} not later than the hour for closing of the polls on the date of any election specified in subsection (b) of K.S.A. 25-1122(f), and amendments thereto, shall be delivered by the county election officer to the appropriate special election board provided for in K.S.A. 25-1133, and amendments thereto.

(b) Subject to the deadline for receipt by the office of the county election officer as set forth in this subsection, all advance voting ballots received by mail by the office of the county election officer after the closing of the polls on the date of any election specified in K.S.A. 25-1122(f), and amendments thereto, and which are postmarked or are otherwise indicated by the United States postal service to have been mailed on or before the date of the election, shall be delivered by the county election officer to a special election board or the county board of canvassers, as determined by the secretary of state, for canvassing in a manner consistent, as nearly as may be, with other advance voting ballots. The deadline for the receipt by mail of the advance voting ballots by the office of the county election officer shall be the last delivery of mail by the United States postal service on the fourth third day following the date of the election, unless additional time is permitted by the secretary. The secretary of state shall adopt rules and regulations to implement this subsection.

Sec. 2. K.S.A. 25-1133 is hereby amended to read as follows: 25-1133. (a) The county election officer of every county, which does not use voting machines, optical scanning systems or electronic or electromechanical voting systems, shall establish a special election board. Such The special election board shall consist of the election board members in the precinct in which is located the office of the county
election officer or the members of such additional election boards of the county as the county election officer may designate. Such the special election board shall meet at the voting place in the precinct in which is located the office of the county election officer on election day, or as provided by rules and regulations adopted by the secretary of state as authorized by K.S.A. 25-1132(b), and amendments thereto.

(b) In counties where voting machines, optical scanning systems or electronic or electromechanical voting systems are used, the county election officer shall appoint a special election board consisting of at least three members. Such members shall be registered voters of the county. Such the special election board shall meet in the office of the county election officer on election day or at such time before election day as the county election officer deems necessary, or as provided by rules and regulations adopted by the secretary of state as authorized by K.S.A. 25-1132(b), and amendments thereto.

Sec. 3. K.S.A. 25-1134 is hereby amended to read as follows: 25-1134. (a) The county election officer in counties which have a special election board established under K.S.A. 25-1133, and amendments thereto, shall deliver all advance voting ballots to the special election board when such the special election board convenes, and thereafter as advance voting ballots are received during election day, until the time for closing of the polls, or as provided by rules and regulations adopted by the secretary of state as authorized by K.S.A. 25-1132(b), and amendments thereto.

(b) The special election board may conduct the original canvass of advance voting ballots when the board convenes, but shall not complete final tabulation prior to election day.

Sec. 4. K.S.A. 25-1136 is hereby amended to read as follows: 25-1136. (a) The vote of any advance voting voter may be challenged in the same manner as other votes are challenged, as nearly as may be, and the judges of the special election board shall determine the validity of each advance voting ballot. Whenever the judges determine that the form accompanying an advance voting ballot is insufficient, or that the voter is not a registered voter, or the challenge is otherwise sustained, the advance voting ballot envelope shall not be opened. In all such cases, the judges shall endorse on the back of the envelope the word "provisional" and state the reason for sustaining the challenge.

(b) Any advance voting ballot envelope which has not been signed shall not be opened, and no vote on the ballot therein shall be counted. Such The envelope or ballot shall be challenged in the same manner in which other votes are challenged.

(c) Whenever it shall be made to appear to the judges of a special election board by sufficient proof that an advance voting voter has died, the envelope containing the advance voting ballot of such the deceased
voter shall not be opened. In all such cases, the judges shall endorse on the
back of the envelope the word "provisional" and the reason for sustaining
the challenge.

(d) If objection is made to an advance voting ballot because of form,
condition, or marking thereof, the ballot shall be marked "void" if the
judges uphold the objection to the entire ballot, and otherwise shall be
marked on the back thereof, "objected to" with a statement of the
substance of the objection.

(e) Void, provisional and objected to advance voting ballots shall be
transmitted to the county election officer in the same manner as personally
cast provisional ballots are transmitted but shall be placed in separate
envelopes or sacks, appropriately labeled and sealed. Votes contained in
void and provisional advance voting ballots shall not be included in the
total of votes certified by the special election board. Void, provisional and
objected to advance voting ballots shall be reviewed by the board of
county canvassers, and such the board shall finally determine the
acceptance or rejection of each void, provisional or objected to ballot.

(f) Procedures for canvassing and challenging advance voting ballots
received by mail after the closing of the polls pursuant to K.S.A. 25-
1132(b), and amendments thereto, shall be as set forth in rules and
regulations adopted by the secretary of state as authorized by K.S.A. 25-
1132(b), and amendments thereto.

Sec. 5. K.S.A. 2016 Supp. 25-3107 is hereby amended to read as
follows: 25-3107. (a) At the time of commencement of any canvass by the
county board of canvassers the county election officer shall present to the
county board of canvassers the preliminary abstracts of election returns,
together with the ballots and records returned by the election boards and,
as provided by rules and regulations adopted by the secretary of state as
authorized by K.S.A. 25-1132(b), and amendments thereto, advance voting
ballots received after the closing of the polls pursuant to K.S.A. 25-
1132(b), and amendments thereto. The county board of canvassers shall
inspect and check the records presented by the county election officer and
shall hear any questions which the county election officer believes
appropriate for determination of the board. The county board of canvassers
shall do what is necessary to obtain an accurate and just canvass of the
election and shall finalize the preliminary abstract of election returns by
making any needed changes, and certifying its authenticity and accuracy.
The certification of the county board of canvassers shall be attested by the
county election officer. Neither the county board of canvassers nor the
county election officer shall open or unseal sacks or envelopes of ballots,
except as is required by K.S.A. 25-409, 25-1136 and 25-1337, and
amendments thereto, or other specific provision of law or as is authorized
to carry out a recount under subsection (b), or as authorized under
subsection (e).

(b) If a majority of the members of the county board of canvassers shall determine that there are manifest errors appearing on the face of the poll books of any election board, which might make a difference in the result of any election, or if any candidate shall request the recount of the ballots cast in all or in only specified voting areas for the office for which such the person is a candidate, or if any registered elector who cast a ballot in a question submitted election requests a recount in all or only specified voting areas to determine the result of the election, the county board of canvassers shall cause a special election board appointed by the county election officer to meet under the supervision of the county election officer and recount the ballots with respect to any office or question submitted specified by the county board of canvassers or requested by such the candidate or elector. If a recount is required in a county that uses optical scanning systems as defined in K.S.A. 25-4601 et seq., and amendments thereto, or electronic or electromechanical voting systems, as defined in K.S.A. 25-4401, and amendments thereto, the method of conducting the recount shall be at the discretion of the person requesting such the recount. The county election officer shall not be a member of such the special election board. Before the special election board meets to recount the ballots upon a properly filed request, the party who makes the request shall file with the county election officer a bond, with security to be approved by the county or district attorney, conditioned to pay all costs incurred by the county in making such the recount. In the event that the candidate requesting the recount is declared the winner of the election as a result of the recount, or if as a result of the recount a question submitted is overturned, no action shall be taken on the person's bond and the county shall bear the costs incurred for the recount. Any recount must be requested in writing and filed with the county election officer not later than 5 p.m. on the day following the meeting of the county board of canvassers. The request shall specify which voting areas are to be recounted. The county election officer shall immediately notify any candidate involved in the election for which such the recount is requested, or shall notify the county chairperson of each candidate's party. Any such the recount shall be initiated not later than the following day and shall be completed not later than 5 p.m. on the fifth day following the filing of the request for a recount, including Saturdays, Sundays and holidays. Upon completion of any recount under this subsection, the election board shall package and reseal the ballots as provided by law and the county board of canvassers shall complete its canvass. The members of the special election board shall be paid as prescribed in K.S.A. 25-2811, and amendments thereto, for time actually spent making the recount.

(c) (1) The provisions of this subsection shall apply to candidates at
any election for:

(A) Any state or national office elected on a statewide basis;
(B) the office of president or vice president of the United States;
(C) the office of members of United States house of representatives;
(D) office of members of state senate or house of representative whose district is located in two or more counties; and
(E) office of members of state board of education.

(2) Any candidate may request a recount in one or more counties. Any such recount must be requested in writing and filed with the secretary of state not later than 5 p.m. on the second Friday following the election. The request shall specify which counties are to be recounted. If a recount is required in a county that uses optical scanning systems as defined in K.S.A. 25-4601, and amendments thereto, or electronic or electromechanical voting systems, as defined in K.S.A. 25-4401, and amendments thereto, the method of conducting the recount shall be at the discretion of the person requesting such the recount. Except as provided by this subsection and subsection (d), the person requesting the recount shall file with the secretary of state a bond, with security to be approved by the secretary of state, conditioned to pay all costs incurred by the counties and the secretary of state in making such the recount. The amount of the bond shall be determined by the secretary of state. A candidate described in paragraphs (D) and (E) of subsection (c)(1) may post a bond as provided by subsection (b) in lieu of the bond required by this subsection. In the event that the candidate requesting the recount is declared the winner of the election as a result of the recount, no action shall be taken on the candidate's bond and the counties shall bear the costs incurred for the recount.

(3) The secretary of state immediately shall notify each county election officer affected by the recount and any candidate involved in the election for which such the recount is requested. If the candidate cannot be reached, then the secretary of state shall notify the state chairperson of such candidate's party. Any such recount shall be conducted under the supervision of the county election officers at the direction of the secretary of state, and shall be initiated not later than the following day and shall be completed not later than 5 p.m. on the fifth day following the filing of the request for a recount, including Saturdays, Sundays and holidays. Each county election officer involved in the recount shall appoint a special election board to recount the ballots. The members of the special election board shall be paid as prescribed in K.S.A. 25-2811, and amendments thereto, for time actually spent making the recount. Upon completion of any recount under this subsection, the special election board in each county shall package and reseal the ballots as provided by law and the county board of canvassers shall complete its canvass. The county election
officer in each county immediately shall certify the results of the recount to the secretary of state.

(d) (1) The provisions of this subsection shall apply to candidates at general elections for:
(A) Any state or national office elected on a statewide basis;
(B) the office of president or vice president of the United States;
(C) the office of members of United States house of representatives;
(D) office of members of state senate or house of representative; and
(E) office of members of state board of education.

(2) Whenever the election returns reflect that a candidate for office was defeated by $\frac{1}{2}$ of 1% or less of the total number of votes cast and if such candidate requests a recount in one or more counties of the ballots, the state shall bear the cost of any recount performed using the method by which such the ballots were counted originally.

(3) Not later than 60 days following a recount conducted pursuant to this subsection, the board of county commissioners of each county in which the recount occurred shall certify to the secretary of state the amount of all necessary direct expenses incurred by the county. Payment for such expenses shall be made to the county treasurer of the county upon warrants of the director of accounts and reports pursuant to vouchers approved by the secretary of state. Upon receipt of such payment and reimbursements, the county treasurer shall deposit the entire amount thereof in the county election fund, if there is one and if there is not then to the county general fund.

(4) The secretary of state, with the advice of the director of accounts and reports, shall determine the correctness of each amount certified under this section and adjust any discrepancies discovered before approving vouchers for payment to any county.

(e) Procedures for canvassing and challenging advance voting ballots received by mail after the closing of the polls pursuant to K.S.A. 25-1132(b), and amendments thereto, shall be as set forth in rules and regulations adopted by the secretary of state as authorized by K.S.A. 25-1132(b), and amendments thereto.


Sec. 7. This act shall take effect and be in force from and after its publication in the statute book.